

by including, in a bid in the adviser's name, amounts that it is investing for the controlled accounts. The investment adviser may also bid for controlled accounts in the names of such accounts. Where bids are in an investment adviser's name, the investment adviser is considered the bidder for such bids and, where bids are in the name of a controlled account, the named controlled account is considered the bidder, for all purposes of this part 356, except as specified in this § 356.15.

(b) *Noncompetitive and competitive bidding.* Regardless of whether the bid for a controlled account is in the name of the investment adviser or in the name of the controlled account, such account may not be bid for both noncompetitively and competitively in the same auction. In addition, such account is subject to the noncompetitive bidding restrictions and award limitations contained in §§ 356.12(b) and 356.22(a).

(c) *Reporting net long positions.* In calculating the amount of its bids and positions for purposes of the net long position reporting requirement found in § 356.13(a), the investment adviser must include, in addition to what would otherwise be included for the investment adviser as a bidder under the bidder definitions, all other competitive bids and positions controlled by the investment adviser. The investment adviser may exclude any net long position less than \$100 million of any nonproprietary controlled account unless the adviser is placing a competitive bid for that account either in the name of the investment adviser or in the name of the account. However, if any net long position less than \$100 million of any nonproprietary account not being bid for is excluded, then all net short positions less than \$100 million of nonproprietary accounts not being bid for must also be excluded. Regardless of whether the investment adviser bids in its own name or in the name of its controlled accounts, if the net long position is reportable, it must be reported as a total in connection with only one bid in accordance with § 356.13(a).

(d) *Submitting bids for controlled accounts.* Notwithstanding the definition of submitter found in § 356.2, and the restriction against submitting bids for others found in § 356.14, an investment

adviser may submit bids, whether in the adviser's own name or in the names of its controlled accounts, directly to a Federal Reserve Bank or the Bureau of the Public Debt, in which case the investment adviser is considered a submitter. In the alternative, the investment adviser may forward such bids to a depository institution or dealer.

(e) *Certifications.* By bidding for a controlled account, an investment adviser is deemed to have certified that it is in compliance with this part and the offering announcement governing the sale and issue of the security. Further, the investment adviser is deemed to have certified that the information provided on the tender or provided to a submitter or intermediary with regard to bids for controlled accounts is accurate and complete.

(f) *Proration of awards.* In auctions where bids at the highest accepted yield or discount rate are prorated under § 356.20(a)(2) of this part, investment advisers that submit bids for controlled accounts in the names of such accounts are responsible for prorating awards for their controlled accounts at the same percentage as that announced by the Department. The same prorating rules apply to controlled accounts as apply to submitters. See § 356.21 of this part.

[61 FR 37010, July 16, 1996]

#### § 356.16 Certifications.

(a) *Submitters.* By submitting a tender for a security, a submitter is deemed to have certified that it is in compliance with this part and the offering announcement governing the sale and issue of the security. Further, the submitter is deemed to have certified that the information provided on the tender with regard to bids for its own account is accurate and complete, and that the information provided on the tender with regard to bids for customers accurately and completely reflects information provided to it by its customers or intermediaries. Prior to submitting a computer tender, a submitter must have on file a written certification that the submitter is certifying, each time it submits a computer tender, that it is in compliance with this part and the applicable offering announcement. The certification must be signed and dated

by an authorized person on behalf of the submitter, be filed with the Federal Reserve Bank to which the computer tender is submitted, and be renewed at least annually.

(b) *Intermediaries.* By forwarding a bid, an intermediary is deemed to have certified that it is in compliance with this part and the offering announcement governing the sale and issue of the security. Further, the intermediary is deemed to have certified that the information provided to a submitter or other intermediary with regard to bids for its own account is accurate and complete, and that the information provided to a submitter or other intermediary with regard to bids for customers accurately and completely reflects information provided to it by its customers or intermediaries.

(c) *Customers.* By bidding for a security, a customer is deemed to have certified that it is in compliance with this part and the offering announcement governing the sale and issue of the security and that the information it provided to the submitter or intermediary in connection with the bid is accurate and complete.

[58 FR 414, Jan. 5, 1993. Redesignated at 61 FR 37010, July 16, 1996]

**§ 356.17 Responsibility for payment.**

A bidder agrees to pay the settlement amount for any securities awarded to it in the auction. (See § 356.25.) In addition, certain payments or provisions for payment are required at the time a tender is submitted. The specific requirements, outlined in this section, depend on whether awarded securities will be delivered in TREASURY DIRECT or TRADES.

(a) *TREASURY DIRECT.* For securities to be held in TREASURY DIRECT, payment of the par amount and announced accrued interest and/or inflation adjustment, if any, must be submitted with the tender unless other provisions have been made, such as payment by an authorized electronic means providing for immediately available funds or by charge to the funds account of a depository institution.

(1) *Payment with tender.* For bills, payment must be by cash, depository institution (cashier's or teller's) check, certified check, currently dated Treas-

ury or fiscal agency check made payable to the bidder, or definitive Treasury securities maturing on or before the issue date of the securities being auctioned, but which are not overdue as defined in the general regulations governing United States securities (31 CFR 306.25). Also, maturing securities held in TREASURY DIRECT may be used as payment for new securities that are being offered, provided that the appropriate transaction request is received timely. For notes or bonds, payment must be in one of the forms described above for bills, or by personal check. Checks submitted to a Federal Reserve Bank must be made payable to that Bank and checks submitted to the Bureau of the Public Debt must be made payable to the Bureau of the Public Debt.

(2) *Payment by authorized electronic means.* Payment may be made by electronic means approved by the Department, provided the bidder, or the submitter on behalf of the bidder, has met the necessary conditions and has satisfactorily completed any required authorizations for such means of payment, in accordance with 31 CFR part 370.

(3) *Authorized charge to a funds account.* If a depository institution or dealer submits a tender for a TREASURY DIRECT bidder and payment is not submitted with the tender or made by an authorized electronic means, an authorization from a depository institution to charge the institution's funds account at a Federal Reserve Bank must be on file with the Bank to which the tender was submitted.

(b) *TRADES.* For securities to be held in TRADES, payment of the par amount and announced accrued interest and/or inflation adjustment, if any, must be submitted with the tender unless other provisions have been made, such as payment by an authorized electronic means providing for immediately available funds or by charge to the funds account of a depository institution.

(1) *Payment with tender.* Where payment is submitted with the tender, payment must be by one of the means specified under paragraph (a)(1) of this section.